

02/27/2012

ORDINANCE NO. 49-257

AN ORDINANCE AMENDING SECTIONS 6.04.035 AND 6.04.040, CREATING SECTION 6.04.058 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANIMAL CONTROL AND PROTECTION AND REPEALING THE ORIGINALS OF SECTIONS 6.04.035 AND 6.04.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION1. Section 6.04.035 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Cruelty to animals.** (a) It is unlawful for any person to commit the crime of cruelty to animals. Cruelty to animals is:

(1) Knowingly or recklessly, but not maliciously killing or causing physical injury to any animal;

(2) Knowingly abandoning or leaving any animal in any place without making provisions for its proper care;

(3) Having physical custody of any animal and knowingly failing to provide adequate care, such as food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept

outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal;

(4) Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the city, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the Police Department (911) of the location, and the Police Department will notify such agency as may be providing injury services;

(5) For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A municipal court judge may order a person convicted under this section to turn the animal involved over to the animal shelter. All such animals taken by animal control may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;

(6) Intentionally using a wire, pole, stick, rope or any other object to cause any equine, bovine or swine to lose its balance or fall, for the purpose of sport or entertainment.

(7) It is unlawful for any person to leave an animal in a standing or parked vehicle under conditions constituting an imminent threat to the safety of the animal. The Animal Control Officer may remove and impound an animal left under what reasonably appears to be such conditions. Removal and impoundment of an animal shall not limit the

Animal Control Officer's ability to pursue charges or animal cruelty in Municipal Court.

(8) It is unlawful for any person to subject any animal to inhumane treatment, as defined by Section 6.04.010 of this Code.

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) Bona fide experiments carried on by commonly recognized research facilities;

(3) Rodeo practices as described in the Professional Rodeo Cowboys Association Rules Governing the Care and Treatment of Livestock in PRCA Sanctioned Rodeos;

(4) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound.

(5) With respect to livestock, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(6) The killing or injury of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, livestock or property;

(7) An Animal Control Officer trained in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(8) Laying an equine down for medical or identification purposes;

(9) Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a and amendments thereto; or

(10) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, and amendments thereto.

(c) As used in this section,

(1) *equine* means a horse, pony, mule, jenny, donkey, or hinny.

(2) *bovine* means a cow, calf, bull or steer.

(3) *swine* means a pig, shoat, piglet, boar, barrow, gilt or sow.

(d) Cruelty to animals as described in this section is a misdemeanor punishable by a fine or not more than \$2,500.00 and/or imprisonment of not more than 12 months, or any combination of such fine and imprisonment.”

SECTION 2. Section 6.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Control and protection of animals in general.** (a) Any owner, keeper or harborer of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harborer shall not be elements of this offense. An Animal Control Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The Supervisor of Animal Control may return the animal to its rightful owner, keeper or harborer upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the Animal Control Officer to require confinement separate from other like animals in order to protect the health and well being of that animal, staff, the public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter.

Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

(1) Upon a first conviction, a fine of not less than \$50.00 nor more than \$1,000.00 shall be assessed.

(2) Upon a second conviction a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.

(3) Upon a third or subsequent conviction, a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.

(b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:

(1) Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and

(2) Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or

(3) The owner, keeper or harborer may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the Chief of Police or designee, to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.

(4) For any dog required to be surgically sterilized, the Supervisor of Animal Control shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harborer shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harborer failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

(c) Upon the second occurrence of any intact dog impounded by Animal Control for running at large, the owner, keeper or harborer of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the Supervisor of Animal Control

Officer shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harborer shall provide documentation of the sterilization upon completion. Any owner, keeper or harborer failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.

(d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

(e) It is unlawful for any person to:

(1) Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for Animal Control Officers to kill squirrels, skunks, birds, or other animals that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;

(2) Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;



(3) Own, maintain, or have in his or her possession with the intent to use in the unlawful conduct of animal fighting, animal fighting paraphernalia;

(4) Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-6414 or convicted of cruelty to animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-6412 and amendments thereto.

(5) Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area. To effect legal relief, persons so affected directly may sign a complaint at the Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.

(6) Allow any unspayed female dog in season to be in an area where there is access by an unconfined male dog;

(7) Allow an unconfined male dog in an area where there is access to any unspayed female dog in season;

(8) Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City

Treasurer. The Chief of Police or designee shall have the authority to establish appropriate licensing fees for such animals.

(9) Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas.

(10) Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection, in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;

(11) Own, keep, or harbor, sell or offer for sale, barter or give away any animal whose possession is prohibited by federal or state law; or any exotic animal as defined in by this title. This section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting of fur salable into an existing market, such as chinchillas, nutria and mink; nonpoisonous amphibians

and reptiles, not including pythons, anacondas, boa constrictors, monitor lizards, iguanas, alligators, caiman, crocodiles and turtles. This section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

(12) Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

a. A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.

b. Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

c. It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(13) Permit or allow any animal to be a public nuisance.

(14) Own, keep or harbor more animals than is permitted by the requirements of this title.

(15) Entering or remaining on premises where the unlawful conduct of animal fighting is occurring whether the person knows or has reason to know that animal fighting is occurring on the premises.

(f) Animal Control Officers and Law Enforcement Officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to appear in municipal court to answer the offense charged. To effect legal relief, persons affected directly may sign a complaint at the Animal Shelter or contact the Wichita Police Department to file a report regarding such nuisance.”

SECTION 3. Section 6.04.058 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Permitting a dangerous animal to be at large.** (a) Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits such animal to go at large or keeps such animal without taking ordinary care to restrain it.

(b) Permitting a dangerous animal to be at large is a misdemeanor. Any person convicted of violating this section shall be sentenced to a term of imprisonment of not more than six months and/or a fine not to exceed one thousand dollars.”

SECTION 4. The originals of Sections 6.04.035 and 6.04.040 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of April, 2012.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law